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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,914	11/18/2003	Jaime Rauld Faine	EJ0717US (#90639)	6535
7590		11/29/2004	EXAMINER	
D. Peter Hochberg		ANDREWS, MELVYN J		
6th Floor		ART UNIT		
1940 East 6th Street		PAPER NUMBER		
Cleveland, OH 44114		1742		

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,914

Applicant(s)

FAINE ET AL.

Examiner

Melvyn J. Andrews

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 32904&6404
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15 to 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 is indefinite because the expression "which can be an artificial material or a stony substance" are examples MPEP 2173.05(d), on line 3 there is no antecedent basis for "the agglutinated material"; also, the claim is incomplete because no step of leaching is recited..

Claim 16 is indefinite because there is no antecedent basis for "the agglutination stage" on line 1; it is unclear to what a calcium chloride solution (line 5) is added ; it is unclear to what "a second solution containing sulfate ion" on line 8 is added ; there is no antecedent basis for "the final agglutinate" on line 10 and "base material" on line 11.

Claim 20 is indefinite because "type" is indefinite MPEP 2173.05 (c) E.

Claim 22 is indefinite because the Markush group is indefinite MPEP 2173.05(h).

Claim 24 is indefinite because the expression "copper species" is not a specific material its composition is unknown.

Claim 25 is indefinite because there is no antecedent basis for "the gravel pile".

Claim 26 is indefinite because there is no antecedent basis for " a gravel pile", what does the expression "copper concentrates agglutinated" mean ? on lines 5 and 6 what does "the pile" mean ? its composition is not apparent .

Claim 28 is indefinite because the meaning of the expression "intermediate solutions " is indefinite.

Claim 30 is indefinite because there is no antecedent basis for "the washing solution".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 15-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chilean Patent No.40,891. The Chilean patent discloses procedure to agglomerate fine crushed copper ores forming liquid permeability piles which (see English translation of Claim 1) in view of which the claimed procedure is obvious since forming an agglomerate prior to leaching is obviously the crux of the claimed procedure in so far as it is understood.

Claims 15-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell et al (US 2003/0223927) in view of Pincheira Alvarez et al (US 5,527,382). Russell et al discloses a method of agglomerating ore mixed with waste rock (page 12 [0079]) whereas Pincheira Alvarez et al discloses a hydrometallurgical process for treatment of copper bearing ores by a pile leaching process it would have been obvious to one of ordinary skill in the art at the time the invention was made to leach the Russell et al agglomerates in the form of a pile since copper is being recovered in both cases, in so far as the claimed procedure is understood.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on March 25, 2004 was The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner. But only a copy

of Claim 1 is in English. If applicants submit an English translation of the Chilean patent 40 891 prosecution of this application would be facilitated.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvyn J. Andrews whose telephone number is (571)272-1239. The examiner can normally be reached on 8:00A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy V King can be reached on (571)272-1244. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJA
November 24, 2004


MELVYN ANDREWS
PRIMARY EXAMINER